

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>SHADIA BABIKER</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 1,002,609
<b>SERVICEMASTER</b>	)	
Respondent	)	
AND	)	
	)	
<b>ZURICH U.S. INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appealed the August 20, 2002 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

**ISSUES**

This is a claim for injuries to the right knee and back, which allegedly resulted from the combination of a specific accident at work in April 2001 and the work activities that claimant performed through her last day of work on approximately May 25, 2001.

Because various medical records from different health care providers failed to reflect a history of injury consistent with that described by claimant at preliminary hearing, Judge Frobish concluded claimant had failed to prove she had sustained a work-related accident. Accordingly, the Judge denied claimant's request for medical benefits.

The only issue before the Board on this appeal is whether claimant has proven that she sustained personal injury by accident arising out of and in the course of employment with respondent.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Board finds and concludes the preliminary hearing Order should be affirmed.

Claimant testified that she injured her knees on an unspecified date in April 2001 when she fell down at work. Claimant described the accident as follows:

The same day I have the injury, my area is very busy, and I have bid for four rooms at the same time and just I working fast, because I love the area and everybody love me, because I do a good job in this area, I try to do best I can, you know, I done four rooms, when I try to separate the bed, the last one, I tried to take the bed -- it's kind of very hard, you know, I take the bed easy and just like the bed jump, you know, and push me on both knees and just -- I fell on the ground.<sup>1</sup>

Claimant also testified she was sent to the emergency room the day of the accident. But the history contained in the emergency room's records is much different from the above. Emergency room records dated April 10, 2001, indicate claimant had been experiencing symptoms in her legs for a period of one month and that she was complaining of pain "in all my bones," especially in the right knee and right foot. Another emergency room record, which bears the dates of both April 10, 2001, and April 11, 2001, states that claimant had been experiencing joint and muscle aches for several months and receiving treatment from a doctor at the University of Kansas Medical School. The emergency room notes did not mention a work-related accident.

Medical notes from the University of Kansas Medical School were introduced at the preliminary hearing. Those notes indicate claimant saw either one or two doctors on April 5, 2001, having diffuse arthralgia in both knees with the right worse than the left. According to those notes, claimant was reporting that all of her joints were hurting, including her fingers, elbows, shoulders, hips and knees. Claimant was also complaining that her right knee was more swollen and hurt worse than her other joints. The University of Kansas medical notes do not contain a history of claimant sustaining an injury at work.

May 10, 2001 medical notes from Dr. Richard B. Lies of the Wichita Clinic indicate claimant developed pain around her knees beginning in March 2001. Finally, the history in December 2001 medical notes from Dr. John D. Osland, another Wichita Clinic doctor, indicates claimant fell down some steps in May 2001 and experienced pain and swelling in her right knee.

The Board has been unable to find a history of a work-related accident in the numerous medical records introduced at the preliminary hearing. Instead, the medical records contain histories that are contrary to claimant's allegations that she sustained a work-related accident.

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<sup>1</sup> P.H. at 8.

Based upon the evidence presented to date, the Board concludes claimant has failed to prove that she sustained a work-related accident or injuries from such an accident that now require medical treatment. Accordingly, the request for medical treatment should be denied.

**WHEREFORE**, the Board affirms the August 20, 2002 preliminary hearing Order entered by Judge Frobish.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 2002.

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BOARD MEMBER

c: Joseph Seiwert, Attorney for Claimant  
Wade A. Dorothy, Attorney for Respondent and its Insurance Carrier  
Jon L. Frobish, Administrative Law Judge  
Director, Division of Workers Compensation